



COMMONWEALTH of VIRGINIA

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
CURTIS BAY MEDICAL WASTE SERVICES VIRGINIA, LLC
FOR
CURTIS BAY ROANOKE FACILITY
Solid Waste Management Regulations Permit by Rule No. 143**

SECTION A: PURPOSE

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Curtis Bay Medical Waste Services Virginia, LLC for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: DEFINITIONS

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below.

1. "Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.
2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
4. "Curtis Bay" means Curtis Bay Medical Waste Services Virginia, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Curtis Bay is a "person" within the meaning of Va. Code § 10.1-1400.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Facility" means the regulated medical waste facility located at 1906 Progress Drive SE, Roanoke, Virginia 24013, which is owned and operated by Curtis Bay.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
9. "OM" means the Facility's Operations Manual, required by the PBR.
10. "Order" means this document, also known as a Consent Order.
11. "Permit" or "PBR143" means Permit by Rule (PBR) No. 143, which was issued under the Virginia Waste Management Act and the VSWMR to Virginia Heath Care Waste Transportation, Inc. on May 3, 1999 and transferred to Curtis Bay on August 2, 2017.
12. "RMWR" means the Regulated Medical Waste Management Regulations, 9 VAC 20-120-10 *et seq.*
13. "RMW" means solid wastes defined to be regulated medical wastes in Part III of the RMWR.
14. "Solid waste" means any of those materials defined as "solid waste" in 9 VAC 20-81-95.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
18. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On May 3, 1999, Virginia Health Care Waste Transportation, Inc. obtained coverage under the Regulated Medical Waste Management Regulations Permit by Rule as a Regulated

Medical Waste Facility. The Permit allows for the collection, transportation, treatment and disposal of medical waste at the Facility.

2. Operations at the Facility are subject to the Virginia Waste Management Act, RMW Regulations, the VSWMR, and the Permit. In addition, the Permit requires Facility operations to be consistent with the facility's Engineering Certification, revised February 17, 2016, and Operations Manual, dated July 17, 2017.
3. On August 2, 2017, DEQ processed an ownership change request transferring the Permit by Rule from Virginia Health Care Transportation, Inc. d/b/a Sci-Med Waste Systems Inc. to Curtis Bay. Curtis Bay representatives met with DEQ to discuss ongoing compliance issues noted at the Facility on April 24, 2017.
4. Subsequently, Curtis Bay representatives met with DEQ staff to discuss ongoing compliance issues previously noted by DEQ at the Facility during an inspection conducted on April 24, 2018.
5. On March 28, May 24, and May 29, 2018, DEQ staff conducted compliance inspections of the Facility. DEQ staff also reviewed documents provided to DEQ during the course of the inspections. On June 5, 2018, DEQ provided Curtis Bay with a single comprehensive written report of its observations made during each of these inspections.
6. The following paragraphs describe the staff's factual observations made during the March and May 2018 inspections and identify the applicable legal requirements associated with such observations.
7. Facility operations were inconsistent with the facility's Engineering Certification ("EC"), revised February 17, 2016, and Operations Manual ("OM"), dated July 17, 2017, contained in PBR143.
 - a. Sanitation: The EC states: *"Areas must be clean and impermeable to liquids. All storage areas are metal or cement. All joints and cracks in the concrete floor are filled"* (EC p.6). The concrete floor in the main treatment facility area is pitted and cracked. The tile floor in the sharps container recycling area has gaps at the seams and the wall, and employees stand on black rubber mats which are not easily cleaned. According to facility employees, the floors are not cleaned following a spill or on a routine schedule. DEQ staff observed regulated medical waste, debris, and standing liquid accumulating on the floors.
 - b. Drainage: The EC states: *"All floor drains go directly to an approved sanitary sewer system...The floor pit also has a floor drain that discharges to sanitary sewer. Grated floor drains in the facility...also discharge to sanitary sewer"* (EC p.7). During the May 24, 2018, inspection, three floor drains in the treatment facility area were not discharging to the sanitary sewer, and a substantial amount of water had accumulated on the concrete

floor. The sharps container recycling line continued to operate and discharge to the floor drain, causing additional water to back up on the main treatment facility area floor. DEQ observed untreated regulated medical waste ("RMW") in the standing water.

During the May 29, 2018, inspection, standing water was observed on the tile floor in the sharps container recycling area on both ends of the washing station.

- c. Storage of Autoclave Carts: The OM states: *"storage of autoclave carts between cycles shall be done under cover to minimize the possibility of storm water coming contact with solid waste"* (OM p. 6). During the May 24, 2018 inspection, DEQ staff observed three autoclave carts stored outside in the parking lot, uncovered, in the area near the compactor. The carts were partially filled with waste that appeared to be sticking to the inside of the carts. Personnel at the Facility indicated that the waste had already been autoclaved, and the facility was planning to clean out the residual waste from the carts.

During the May 29, 2018, inspection, DEQ staff observed several autoclave carts containing treated RMW sitting outside on the parking lot, uncovered, and in the area of the compactor. Near the end of the inspection, precipitation began to fall on the uncovered carts.

- d. Equipment/Operation: The OM states incoming carts and containers will be *"scanned for radiation"* and that *"all incoming waste is checked for radioactivity using a Ludlum Model 3 survey meter equipped with a 44.9 Probe"* (OM p.7). During the May 24, 2018 inspection, Facility staff stated that not all incoming waste is scanned for radioactivity and that RMW from only one customer is scanned. Additionally, a calibration label on the meter indicates the meter was last calibrated by the manufacturer in 2013.
- e. Daily Cleanup: The OM states that *"All equipment and surfaces are cleaned and decontaminated...after the completion of regulated medical waste transfer procedures; immediately (or as soon as feasible) when surfaces are contaminated; and after any spill of blood or infectious materials"* (p.8). On both the May 24 and May 29, 2018 inspections, DEQ staff observed RMW on the floor throughout the facility, under and around equipment, and in the parking lot. After the first inspection, Facility personnel did not initiate removal of RMW from the floor under the unloading platform, around the cart washing station, or the parking lot and perimeter fencing. As a result, similar observations were made in the second inspection.

- f. **Disinfection of Reusable Containers:** Reusable sharps containers were not being cleaned and disinfected in accordance with the approved procedures in the OM. The OM states that the wash cycle for containers and lids begins with a pre-wash, followed by a wash cycle consisting of an aggressive spray of 140-165 degree water mixed with detergent and 12% bleach solution disinfectant, and a rinse cycle consisting of high temperature sanitizing rinse water. (OM, p. 10) During the May 24, 2018 inspection, facility staff explained that sharps container lids were pre-soaked in a sink with a 6% or less bleach solution (12% bleach solution mixed with 1:1 ratio of water), rinsing containers (and lids) with a high temperature washwater spray, scrubbing the containers and lids with a brush dipped in a bleach solution, and drying the containers and lids with a hand towel.

9 VAC 20-120-690(D)(9) states that “The director shall terminate [an] off-site permit by rule and shall require closure of the facility whenever he finds that: ...d. The operation of the facility is inconsistent with the facility's operations manual and the operational requirements of the regulations.”

8. During the May 24, 2018, inspection, three floor drains in the treatment facility area were not discharging to the sanitary sewer, and a substantial amount of water had accumulated on the concrete floor. Untreated RMW was scattered throughout the standing water. DEQ staff discussed with Facility personnel the potential risk of rising water levels covering electrical conduits associated with the cart tipper in the main treatment facility area. Additionally, DEQ staff expressed concerns to Facility personnel about Facility staff continuing to work in and walk-through the accumulating liquid (which contained untreated RMW). At approximately 11:30 AM on May 24, 2018, Facility personnel indicated to DEQ staff that the Facility was subject to a temporary shutdown of operations until a plumber could arrive and correct the issue. DEQ staff considered that statement to DEQ as a 24-hour oral notification of an unusual condition, and DEQ staff requested written notification of the incident within five (5) calendar days in accordance with 9 VAC 20-120-760.C.3. Written notification of the incident was not provided to DEQ by the facility until May 31, 2018, which is seven (7) calendar days after the incident occurred.

Staff at the facility reported that similar blockages to the floor drains had occurred multiple times per year; however, DEQ does not have a record of the facility reporting these types of incidents as required.

9 VAC 20-120-760(C)(3) states that “The permittee shall report to the department any noncompliance or unusual condition that may endanger health or environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five calendar days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of

the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue. It shall also contain steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.”

9. The on-site spill containment kit did not have one gallon of disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream at a distance. Bleach disinfectant is stored in a 55-gallon drum on the floor. The pump used to dispense the bleach is not capable of dispersing its charge in a mist and stream at a distance. A smaller container containing approximately 1/10 gallon of disinfectant was on top of the spill kit.

9 VAC 20-120-270 states that “All regulated medical waste management facilities are required to keep a spill containment and cleanup kit within the vicinity of any area where regulated medical wastes are managed, and the location of the kit shall provide for rapid and efficient cleanup of spills anywhere within the area... The kit shall consist of at least the following items: ...2. One gallon of disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream at a distance. The disinfectant shall be hospital grade and effective against mycobacteria.”

10. DEQ observed that untreated regulated medical waste (e.g., tubing, vials, sharps, sample containers, ampules, and other debris) and untreated liquids had spilled onto the treatment facility area floor, especially in and around the unloading platform, the cart tipping area, in and around the cart washing station, and in the area beneath and adjacent to the autoclaves. In addition, DEQ staff observed sharps, tubing, vials, and other similar wastes in the parking lot, along the perimeter fence, and in the area under and around the compactor where treated waste is stored. DEQ staff could not determine if the wastes in the parking lot and compactor area were treated, solid waste or untreated, regulated medical waste.

On May 24, 2018 and May 29, 2018, Facility personnel did not take steps to immediately cleanup spilled regulated medical waste nor were steps taken to clean and disinfect areas having been contacted by regulated medical waste. Facility personnel continued to walk through and work in the areas where spillage of RMW had occurred. When DEQ staff asked facility personnel how often spills are cleaned up, personnel gave differing answers, including responses such as “at the end of each shift” and “once a week”. The OM states that spills will be cleaned up after the transfer of RMW, immediately (or as soon as feasible), and after the spill of blood or infectious materials.

9 VAC 20-120-280 states that “Following a spill of regulated medical waste or its discovery, the following procedures shall be implemented: 1) Take appropriate precautions to ensure personnel do not come into contact with any contaminants by wearing appropriate personal protective equipment; 2) Repackage spilled waste in accordance with the packaging requirements in 9VAC20-120-210;

3) Transport any regulated medical waste by a transporter that meets the requirements of Part VI (9VAC20-120-400 et seq.) of this chapter; 4) Clean and disinfect any areas having been contacted by regulated medical wastes. Materials used to decontaminate the area will be disinfectants effective against mycobacteria; 5) Take necessary steps to replenish containment and cleanup kit.

11. DEQ staff observed spilled, untreated regulated medical waste, other debris, and accumulating liquids, on the floors throughout the main facility treatment area and the sharps container recycling area.

The concrete floor in the main facility treatment area was observed to have exposed cracks and pitting. The facility attempted to repair the cracks using an epoxy sealant, but the sealant is broken or has been worn away, and cracks and pitting remain.

The tile floor in the sharps container recycling area was observed to have spaces and cracks between tiles. The floor was not sealed or impervious to liquids. Additionally, the facility placed rubber mats on top of the tile floor, which are not easily cleaned and could trap fluids or bacteria.

9 VAC 20-120-340 states that “All areas used to store regulated medical waste must be clean and impermeable to liquids. Carpets and floor coverings with cracks or gaps shall not be used in storage area. Where tile floors are used and seams are present in the tile, the floor must be sealed with wax or other floor coatings in order to meet this requirement. Vectors shall be controlled.”

12. DEQ staff observed uncontainerized, untreated RMW scattered throughout the building and property, including in the parking lot outside. Because the waste was not properly containerized and dated, DEQ staff could not determine how long the waste had been stored on site. This material may have been on site for more than seven (7) days unrefrigerated. The same uncontainerized, scattered waste may have been in or outside the building for more than 15 total days.

9 VAC 20-120-360 states that “Any regulated medical waste stored for more than seven days must be refrigerated, stored in an ambient temperature between 35° and 45°F (2° and 7°C). If the material is stored away from the site of generation and the time in storage is unknown, the regulated medical waste must be refrigerated. No regulated medical waste shall be stored for more than 15 days at the site of generation. Procedures shall be provided to ensure that the above storage timeframes are met. The date that the waste is first placed in storage will be provided on any outer packaging while the waste is in storage.”

13. On May 24, 2018, portions of the Facility’s drain system were observed to be blocked, causing liquid from three separate floor drains to back up onto the main facility treatment area floor instead of discharging to the sanitary sewer system. Several inches of standing liquid was observed on the processing floor, and the

liquid level continued to rise as the inspection was conducted. Untreated regulated medical waste was observed in the standing liquid. The facility reported that a plumber had been contacted to repair the blockage. The facility stopped operating at the conclusion of the inspection due to the volume of liquid on the floor. The blockage was removed by the time of the follow-up inspection on May 29, 2018. Staff at the facility reported that similar blockages to the floor drains had occurred multiple times per year; however, DEQ does not have a record of the facility reporting these types of incidents.

The exit side (or “clean side”) of the cart washing station is located adjacent to a large bay door along an exterior wall. On May 29, 2018, DEQ staff observed washwater contaminated with untreated RMW falling on the concrete floor between the washing station and bay door. The washwater was draining out of the building and across the parking lot toward the southeast corner of the property. DEQ staff made a similar observation during the December 21, 2017 inspection, when washwater was observed running across the parking lot to the southeast corner of the property.

9 VAC 20-120-370 states that “All floor drains shall discharge directly to an approved sanitary sewer system. All ventilation shall discharge so as to minimize human exposure to the effluent. Storage, transport and transfer to, from, and between vehicles shall be under a cover or packaged in a container that protects the waste from the elements and over a floor or bermed pavement that will contain leaks and spills of liquid from the waste. No requirement for cover, floor, or pavement shall be construed if the activity is transient in nature, such as in the case of spill cleanup or weekly collection of waste packages from professional offices for transport.”

14. During the May 24, 2018 inspection, reusable carts were not being thoroughly cleaned prior to being shipped off site for reuse. Untreated regulated medical waste was observed in the washwater that had accumulated beneath what is referred to by the facility as the “clean side” of the cart washing station, which indicates that some untreated waste may have remained on the reusable carts after cleaning.

Reusable sharps containers were not being cleaned and disinfected in accordance with approved procedures in the facility’s OM. The OM states that the wash cycle for containers and lids begins with a pre-wash, followed by a wash cycle consisting of an aggressive spray of 140-165 degree water mixed with detergent and 12% bleach solution disinfectant, and a rinse cycle consisting of high temperature sanitizing rinse water. During the inspection, facility personnel were soaking sharps lids in a sink with a 6% or less bleach solution, wiping down sharps containers with a rag, rinsing containers with a high temperature washwater spray, scrubbing the containers and lids with a brush dipped in a bleach solution, and drying the containers and lids with a hand towel.

9 VAC 20-120-380 states that “Waste managed in reusable carts or containers shall meet the special requirements for reusable containers in 9VAC20-120-260.”

9 VAC 20-120-260 states that “Regulated medical waste may be conveyed in reusable carts or containers under the following conditions: ...2. Immediately following each time a reusable cart or container is emptied and prior to being reused it is thoroughly cleaned with detergent or general purpose disinfectant.”

15. During the May 24, 2018 inspection, persons loading, unloading, and handling containers of regulated medical waste did not have appropriate personal protective equipment. Facility personnel at transfer points and washing stations were not wearing splash protection, and some personnel did not appropriate hand protection while handling RMW. Employees were observed to be walking through standing water contaminated with RMW without waterproof footwear.

9 VAC 20-120-390 states that “Persons loading, unloading, or handling containers of regulated medical waste shall wear appropriate personal protective equipment.”

16. During the May 24, 2018 inspection, trailers used to transport incoming RMW for treatment and used to transfer untreated anatomical waste and chemo waste were observed to be either partially or entirely wooden. Wooden floors are not impermeable to liquids nor are they easily cleanable.

9 VAC 20-120-410 states that “Surfaces of equipment used to transport regulated medical waste must be clean and impermeable to liquids, if those areas are involved with the management of the waste. Carpets and floor coverings with cracks or gaps shall not be used. Vectors shall be controlled. All trucks and equipment used to transport regulated medical waste must be thoroughly cleaned with detergent or hospital grade disinfectant before being used for any other purpose and prior to any transfer of ownership. Any areas of trucks or equipment that are visibly contaminated, or that become contaminated as a result of a spill, will be immediately decontaminated in accordance with 9VAC20-120-280 A 4.”

17. During the May 24, 2018 inspection, DEQ staff observed waste spilling out of the back of an open, walking floor trailer in the back of the facility’s parking lot. Facility personnel indicated that the trailer was used to transport autoclaved waste to a permitted landfill and was currently out of service for repairs. Facility personnel indicated that the waste observed was what remained in the trailer after unloading for disposal. DEQ staff informed Facility personnel that after treatment, all waste should be transported to an approved landfill and not allowed to be stored uncontainerized at the site. The facility removed the waste from the trailer on the day of inspection (after DEQ left the site) and emailed pictures of the trailer to DEQ. A small amount of waste remained in the trailer and was observed during the follow-up site visit on May 29, 2018.

9 VAC 20-81-95.D states that “The following activities are conditionally exempt from this chapter provided no open dump, hazard, or public nuisance is created . . . 10. Management of solid waste in appropriate containers at the site of its generation.”

18. During the May 24, 2018 inspection, DEQ staff observed three uncovered autoclave carts stored outside near the northeast corner of the parking lot, uncovered, and the carts contained ash, partially burned waste, and some unburned solid waste. Facility personnel indicated that treated waste had stuck to the inside of these autoclave carts, and the facility had burned the waste to remove it from the carts before reusing. During the May 29, 2018 inspection, the autoclave carts containing ash and solid waste remained on site. The facility does not have a permit to open burn solid waste.

9 VAC 20-120-600(A) states that “Solid waste that has been steam sterilized and managed in compliance with these regulations is no longer regulated medical waste and is solid waste.”

9VAC20-81-40 states that “(A) No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director; (B) No person shall allow waste to be disposed of or otherwise managed on his property except in accordance with this chapter; (C) It shall be the duty of all persons to dispose of or otherwise manage their solid waste in a legal manner.”

Va. Code § 10.1-1418.1(A) states that “It shall be the duty of all persons to dispose of their solid waste in a legal manner.”

19. On June 5, 2018, based on the March 28, May 24, and May 29, 2018 inspections and follow-up information, the Department issued NOV No. 18-06-BRRO-002 to Curtis Bay for the violations identified in Paragraphs C(7) through C(18) above.
20. On June 6, 2018, Curtis Bay representatives met with DEQ staff in Richmond to discuss the findings of the March and May 2018 inspections and to discuss and review corrective actions taken by Curtis Bay at the Facility since the May 29, 2018 inspection, and additional corrective actions required to return the Facility to compliance.
21. Since May 30, 2018, Curtis Bay submitted to DEQ multiple and regular email and written updates regarding ongoing corrective actions taken at the Facility.
22. On August 30 and September 29, 2018, DEQ staff conducted compliance inspections of the Facility. DEQ staff also reviewed documents provided to DEQ during the course of the inspections. Daily zone inspection records for the month of August were missing, and records did not have a date recorded. When asked about specific dates or zones, facility staff could not find the requested records. During the September 28, 2018, inspection, numerous facility records including autoclave charts and autoclave tracking sheets were

conflicting, missing, or incomplete. Operational performance levels could not be confirmed on multiple loads due to irregular records.

23. 9 VAC 20-120-590 states that “All sterilizers for regulated medical waste shall maintain the following level of operational performance at all times: 1. Operational temperature and detention. Whenever regulated medical wastes are treated in a steam sterilizer, all the regulated medical waste shall be subjected to the following operational standards (at 100% steam conditions and all air evacuated): a. Temperature of not less than 250°F for 90 minutes at 15 pounds per square inch of gauge pressure; b. Temperatures of not less than 272°F for 45 minutes at 27 pounds per square inch of gauge pressure; or c. Temperatures of not less than 320°F for 16 minutes at 80 pounds per square inch of gauge pressure. Equivalent combinations of operational temperatures, pressure and time may be approved by the director if the installed equipment has been proved to achieve a reliable and complete kill of all microorganisms in regulated medical waste at design capacity. Written requests for approval of an equivalent standard shall be submitted to the director. Complete and thorough testing shall be fully documented, including tests of the capacity to kill *B. stearothermophilus*. Longer steam sterilization times are required when a load contains a large quantity of liquid. 2. Operational controls and records. a. Steam sterilization units shall be evaluated under full loading for effectiveness with spores of *B. stearothermophilus* no less than once per month. b. A log shall be kept at each steam sterilization unit that is complete for the preceding three-year period. The log shall record the date, time and operator of each usage; the type and approximate amount of regulated medical waste treated; the dates and results of calibration; and the results of effective testing described in subdivision 2 a of this section. Where multiple steam sterilization, a working log can be maintained at each unit and such logs periodically consolidated at a central location. The consolidated logs shall be retained for three years and be available for review.
24. Permit Requirements: PBR Modification 4, issued for the Facility, dictates the following autoclave settings for regular RMW: Vacuum (60 seconds) Preheat to 285F. Soak at 285F for 2 minutes Blow down (30 seconds) Vacuum (120 seconds) Preheat to 290F Soak at 290F for 25 minutes (at approximately 42 psig.) Blow down (30 seconds) Vacuum/drying phase (end of cycle) (180 seconds/60 seconds).
25. On October 24, 2018, based on the August 30 and September 29, 2018 inspections and follow-up information, the Department issued NOV No. 18-10-BRRO-002 to Curtis Bay for the violations identified in Paragraphs C(22) through C(24) above.
26. On October 30, 2018, DEQ staff inspected the Facility for compliance with the Virginia Waste Management Act, the VSWMR, and the RMWR. Review of an autoclave chart from October 26, 2018 showed that during the first treatment run the autoclave only reached 34 psig during the treatment portion of the cycle. Modification 4 of the PBR states that the autoclave will soak the RMW “at 290F for 25 minutes (at approximately 42 psig).” Facility personnel did not retreat this load.

27. On December 6, 2018, based on the October 30, 2018 inspection and follow-up information, the Department issued NOV No. 18-11-BRRO-002 to Curtis Bay for the violation described in Paragraph C(26) above.
28. On February 1, 2019, Curtis Bay notified DEQ that as of January 29, 2019 it had ceased treating regulated medical waste at the Facility and that the Facility would now only be used for RMW transfer operations and for a limited period of time, to decant sharps containers for cleaning at the Facility with the sharps themselves transferred to another permitted facility for treatment.
29. In a letter dated February 27, 2019, Curtis Bay responded to the December 6, 2018 NOV. In that letter, Curtis Bay described repairs made by the autoclave manufacturer in November 2018 and changes Curtis Bay has made in operation of the autoclave.
30. In a letter dated March 31, 2019, Curtis Bay informed DEQ that all sharps decanting and container washing operations had ceased at the Facility, and that the Facility would solely be used for RMW transfer operations. Curtis Bay also informed DEQ that it had voluntarily elected to not utilize nor maintain the Facility's equipment and permits to allow its use as a back-up treatment location for RMW, and that the autoclaves, boiler, cart washer, and sharps container washer had been de-energized, locked-out, and would eventually be removed from the Facility.
31. On April 30, 2019, Curtis Bay submitted a request to modify the Permit. The modification proposed terminating existing provisions authorizing treatment of regulated medical waste, but continuing to authorize storage and transportation activities. In a letter to Curtis Bay dated June 7, 2019, DEQ stated that the modification application was administratively incomplete and requested additional information.
32. Curtis Bay has submitted documentation that verifies, and DEQ staff inspected the Facility on October 30, 2018 and verified that the violations described in paragraphs C(7) through C(10), C(12) through C(18), C(22), and C(26) above, have been corrected and that all RMW treatment operations had ceased at the Facility.
33. Based on the results of the March 28, May 24, May 29, August 30, September 29, and October 30, 2018 inspections, and the documentation submitted by Curtis Bay, the Board concludes that Curtis Bay has violated 9 VAC 20-120-760(C)(3), 9 VAC 20-120-270(2), 9 VAC 20-120-280(1)-(5), 9 VAC 20-120-340, 9 VAC 20-120-360, 9 VAC 20-120-370, 9 VAC 20-120-380, 9 VAC 20-120-260(2), 9 VAC 20-120-390, 9 VAC 20-120-410, 9 VAC 20-81-40, 9 VAC 20-120-590, and Va. Code §10.1-1418.1, as described in Paragraphs C(5) through C(25), above.
34. In order for Curtis Bay to complete its return to compliance, DEQ staff and representatives of Curtis Bay have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: AGREEMENT AND ORDER

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Curtis Bay Medical Waste Services Virginia, LLC, and Curtis Bay Medical Waste Services Virginia, LLC agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$136,850.00 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
Not later than 30 days from the effective date of this Order	\$34,212.50 or balance
No later than 120 days from the effective date of this Order	\$34,212.50 or balance
No later than 210 days from the effective date of this Order	\$34,212.50 or balance
No later than 300 days from the effective date of this Order	\$34,212.50

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Curtis Bay. Within 15 days of receipt of such letter, Curtis Bay shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.
4. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Curtis Bay shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Curtis Bay shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: ADMINISTRATIVE PROVISIONS

1. The Board may modify, rewrite, or amend this Order with the consent of Curtis Bay for good cause shown by Curtis Bay, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 18-06-BRRO-002 dated June 5, 2018, NOV No. 18-10-BRRO-002 dated October 24, 2018, and in NOV No. 18-11-BRRO-002 dated December 6, 2018. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Curtis Bay admits to the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact, and conclusions of law in this Order.
4. Curtis Bay consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Curtis Bay declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Curtis Bay to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Curtis Bay shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Curtis Bay shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Curtis Bay shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance;
and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Curtis Bay. Nevertheless, Curtis Bay agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Curtis Bay has completed all of the requirements of the Order;
 - b. Curtis Bay petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Curtis Bay.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Curtis Bay from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Curtis Bay and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Curtis Bay certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind

Consent Order

Curtis Bay Medical Waste Services Virginia, LLC; PBR #143; BR18-0615

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Curtis Bay to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Curtis Bay.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Curtis Bay voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 23rd day of July, 2019.



Robert J. Weld, Regional Director
Department of Environmental Quality

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Curtis Bay Medical Waste Services Virginia, LLC; PBR #143; BR18-0615

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Curtis Bay Medical Waste Services Virginia, LLC, voluntarily agrees to the issuance of this Order.

Date: 6/18/2019 By: *[Signature]*, CEO
Jack Perko President & CEO
Curtis Bay Medical Waste Services Virginia, LLC

State of Maryland

City/County of Aberdeen/Hai Ford

I HEREBY CERTIFY that on the 18th day of June 2019, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared Jack Perko, who acknowledged himself to be the President & CEO of Curtis Bay Medical Waste Services Virginia LLC, a limited liability company authorized to do business in Virginia, and that he, as such President & CEO of the limited liability company, being authorized to do so, executed this Order by Consent for the purposes expressly contained herein, by signing the name of the limited liability company by himself as such President & CEO.

IN WITNESS WHEREOF, I set my hand and official seal.

Betty A. Knighten
Notary Public

N/A
Registration No.

My commission expires: BETTY ANN KNIGHTEN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires September 26, 2019

Notary seal:

**APPENDIX A
SCHEDULE OF COMPLIANCE**

1. Unless an alternative timeline is requested by Curtis Bay and approved by DEQ, Curtis Bay shall respond within 30 days of receipt to any additional deficiencies noted by DEQ in follow-up documentation submitted by Curtis Bay related to the Permit By Rule Modification Request described in Paragraph C(31) above.

Contact

Unless otherwise specified in this Order, Curtis Bay shall submit all requirements of Appendix A of this Order to:

Robert Steele, Enforcement Specialist Sr.
VA DEQ – Blue Ridge Regional Office
901 Russell Drive
Salem, Virginia 24153
(540) 562-6777
Robert.Steele@deq.virginia.gov

AND

Jenny Poland, Solid Waste Permit Writer
VA DEQ – Blue Ridge Regional Office
901 Russell Drive
Salem, Virginia 24153
(540) 562-6890
Jenny.Poland@deq.virginia.gov